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Christopher Keith

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52531

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04/28/2011

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EXAMINER

GRAHAM, CLEMENT B

ART UNIT

PAPER NUMBER

3691

NOTIFICATION DATE

DELIVERY MODE

04/28/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

efiling@cojk.com

Office Action Summary	Application No. 09/546,031	Applicant(s) KEITH, CHRISTOPHER	
	Examiner Clement B. Graham	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/5/10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22,24 and 26-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22,24 and 26-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22, 24, 26-41 remained pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made

3. Claims 1-22, 24, 26-41, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmus et al, (Herein after Kalmus U.S Patent 4, 674, 044) in view of Anaya et al, (Hereinafter Anaya U.S Patent 7, 454, 372).

As per claims 1, Kalmus discloses a computer-implemented method of providing a published price for a security, wherein the published price is available to a plurality of market participants in a market to execute a trade for the security, the method comprising: under control of instructions executed by one or more processors in a computer system: notifying (“i. e, brokerage firm”) a set of first computer processes (“i. e, communicating”) of a proposed price and for a stock for buying or selling the security (see column 4 lines 1-67 and claim1 and claim 3 lines) wherein the set of first computer processes represents a subset of the plurality of market participants, and wherein a trade for the security at the proposed price is not executable at the market (see column 4 lines 1-67 and claim1 and claim 3 lines 5-40) receiving an improved price for the security, from at least one of the first computer processes, wherein the improved price is higher than the proposed price for buying the security or lower than the proposed price for selling the security and in response to receiving an improved price, from at least one of the first computer processes, providing the improved price as a published price and wherein the notifying, determining, and providing are performed by a second computer program process executing on a computer (see column 4 lines 1-67 and claim1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

Kalmus fail to explicitly teach wherein the market participants can execute a trade for the security at the published price.

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines(see column 21 lines 52-61 and column 23 lines 24-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kalmus to include wherein the market participants can execute a trade for the security at the published price taught by Anaya in order execute a trade based on published.

As per claims 2, Kalmus discloses wherein, when there is no improved price, the proposed price is provided as the published price (see column 4 lines 1-67 and claim1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 3, Kalmus discloses further comprising waiting for a predetermined time interval after notifying the first computer processes before determining whether any of the first computer processes has offered an improved price(see column 4 lines 1-67 and claim1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claim 4, Kalmus discloses further comprising receiving a plurality of improved prices from a plurality of first computer processes during the predetermined interval, and selecting the best of the improved prices as the published price(see column 4 lines 1-67 and claim1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claim 5, Kalmus discloses wherein an improved price first received from any of the first computer processes is provided as the published price (see column 4 lines 1-67 and claim1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 6, Kalmus discloses further comprising prior to notifying the first computer processes of the proposed price, comparing a current book price to a most recent trade price and deciding to notify the first computer processes of the proposed price when the current book price

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is different than the most recent trade price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claim 7, Kalmus discloses, a computer-implemented method of participating in pricing of a security at a market at which trades are made with respect to the security, the method comprising:

under control of instructions executed by one or more processors in a computer system:

receiving a proposed price for the security from a second computer process, wherein the second computer process is providing the market, and wherein a trade for the security at the proposed price is not executable at the market (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) and determining whether to improve upon the proposed price for the security by offering an improved price that is higher than the proposed price for buying the security or lower than the proposed price for selling the security, and when the determination is affirmative, offering the improved price to the second computer process, which improved price can be provided by the second computer process as a published price to a plurality of market participants at the market, and wherein the receiving, determining and offering are performed by a first computer process executing on a computer (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

Kalmus fail to explicitly a trade at the published price being executable by the market participants at the market.

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines (see column 21 lines 52-61 and column 23 lines 24-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kalmus to include a trade at the published price being executable by the market participants at the market taught by Anaya in order execute a trade based on published.

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As per claim 8, Kalmus discloses further comprising requiring the first computer process to register with the second computer process to receive proposed prices for trading the security (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claim 9, Kalmus discloses further comprising receiving at the first computer process a published price from the second computer process, deciding whether the published price is satisfactory to complete a transaction, and when the decision is that the published price is not satisfactory, then registering the first computer process with the second computer process without booking an order for the security (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 10, Kalmus discloses, wherein the determining is automatically performed in accordance with a strategy predefined in execution of the first computer process (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47). As per claims 11, Kalmus discloses wherein the determining is performed in accordance with an instruction received from a controller in response to a transmission of the proposed price to the controller price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 12, Kalmus discloses a computer-implemented method of setting a price for a security, the method comprising:

under control of instructions executed by one or more processors in a computer system:
maintaining an order book for a market at which trades are made with respect to the security, said order book including orders to buy or sell specified quantities of the security at respective prices, the lowest sell order price of the booked orders being the book sell price, the highest buy order price of the booked orders being the book buy price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) engaging in a price discovery procedure with a set of first computer processes before responding to a request for a current buy or sell price of the security (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) wherein the price discovery procedure produces a discovered price for the security and providing the discovered price as the current buy or sell price of the security, in response to the request the discovered price being higher than the

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book buy price or lower than the book sell price, wherein the maintaining, engaging and providing are performed by a second computer process executing on a computer system (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 14, Kalmus discloses wherein the price discovery procedure includes providing the book buy or sell price to at least one process of the first computer processes (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 14, Kalmus discloses wherein the at least one process provides an improved price higher than the book buy price or lower than the book sell price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 15, Kalmus discloses wherein a temporal duration of the price discovery procedure is predetermined price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 16, Kalmus discloses wherein a temporal duration of the price discovery procedure is based on an amount of activity occurring during the price discovery procedure price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 17, Kalmus discloses wherein the first computer process each represent an order for the security that has not been booked price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 18, Kalmus discloses wherein the first computer processes each represent an order for the security that has not been booked price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 19, Kalmus wherein the notifying determining, and providing are performed automatically without human intervention price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 20, Kalmus further comprising requiring the first computer process to register with the second computer program entity to participate in the price discovery procedure

price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 21, Kalmus wherein the at least one entity automatically provides the improved price based on a strategy that is predetermined in execution of the at least one process (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 22, Kalmus discloses wherein the at least one process provides the improved price based on a strategy that is predetermined in execution of the at least one process and wherein the strategy of the at least one computer process is determined independently of strategies for other first computer process price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 24, Kalmus discloses wherein the proposed price is determined by the second computer process based on a booked order in an order book price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 26, Kalmus wherein the proposed price is determined by the second computer process based on a booked order in an order book price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 27, Kalmus discloses a computing system for providing a published price for a security to a plurality of market participants at a market at which trades are made with respect to the security, the system comprising:

a notification component executing on at least one computer processor, wherein the notification component is configured to notify a set of a proposed price for trading the security, wherein the set of market participants is a subset of the plurality of market participants, and wherein a trade for the security at the proposed price is not executable at the market, and

a pricing component executing on at least one computer processor, wherein the component is configured to offered receive an improved price for the security from at least one of the market participants in the set of market participants, wherein the improved price is higher than the proposed price for buying or lower than the proposed price for selling, and in response to receiving an improved price from at least one of the market participants in the set, provide the improved price as the published;

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wherein the notification component is configured to notify the set of market participants of the proposed price prior to the component providing the published price, and wherein the market participants can execute a trade for the security at the published price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 28, Kalmus discloses wherein if an improved price has not been received, the computing system is configured to provide the proposed price as the published price.

(see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 29, Kalmus discloses wherein the pricing component is configured to wait for a predetermined time interval after the notification component notifies the set of market participants of the proposed price before providing the improved price as the published price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 30, Kalmus discloses wherein if a plurality of improved prices is received from a plurality of the market participants during the predetermined interval, the pricing component is configured to provide the best of the improved prices as the published price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 31, Kalmus discloses, wherein the pricing component is configured to provide an improved price first offered by any of the market participants as the published price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 32, Kalmus discloses wherein prior to the notification component notifying the set of market participants of the proposed price, the computing system is configured to compare a current book price to a most recent trade price and decide to notify the set of market participants of the proposed price when the current book price is different than the most recent

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trade price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 33, Kalmus discloses wherein the computing system is configured to notify, determine, and provide the published price automatically without human intervention price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 34, Kalmus discloses a computer-accessible storage medium containing computer program instructions that, when executed, cause a computer to participate in pricing of a security by:

receiving a proposed price for the security from a computer process, wherein the computer process is providing a market at which trades are made with respect to the security, and wherein a trade for the security at the proposed price is not executable at the market (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47)

determining whether to improve upon the proposed price for the security by offering an improved price that is higher than the proposed price for buying the security or lower than the proposed price for selling the security (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) and when the determination is affirmative, offering the improved price to the computer process which improved price can be provided by the second computer process as a published price to a plurality of market participants at the market (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) .

Kalmus fail to explicitly and a trade at the published price being executable by the market participants at the market.

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines (see column 21 lines 52-61 and column 23 lines 24-31).

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Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kalmus to include and a trade at the published price being executable by the market participants at the market taught by Anaya in order execute a trade based on published.

As per claims 35, Kalmus discloses wherein the instructions, when executed, cause the computer to register with the second computer process for the purpose of receiving proposed prices for trading the security price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 36, Kalmus discloses wherein the instructions, when executed, further cause the computer to receive a published price from the computer process, decide whether the published price is satisfactory to complete a transaction, and when the decision is that the published price is not satisfactory, then register with the second computer process without booking an order for the security price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 37, Kalmus discloses wherein the instructions cause the computer automatically determine whether to improve upon the proposed price in accordance with a predefined strategy price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

As per claims 38, Kalmus discloses a computing system for providing a published price for a security, wherein the published price is available to a plurality of market participants in a market to execute a trade for the security, the system comprising:

means for notifying a set of first computer processes of a proposed price for buying or selling the security, wherein said notifying occurs prior to providing the published price, and wherein a trade for the security at the proposed price is not executable at the market (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47)

means for determining whether any of the first computer processes has offered an improved price for the security, wherein the improved price is higher than the proposed price for buying or lower than the proposed price for selling, and means for providing the improved price as the published price to the plurality of market participants if an improved price has been offered (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

Kalmus fail to explicitly teach wherein the market participants can execute a trade for the security at the published price.

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines(see column 21 lines 52-61 and column 23 lines 24-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kalmus to include wherein the market participants can execute a trade for the security at the published price taught by Anaya in order execute a trade based on published.

As per claims 39, Kalmus discloses a computing system for setting a price for a security, comprising:
means for maintaining an order book for a market at which trades are made with respect to the security, said order book including orders to buy or sell specified quantities of the security at respective prices, the lowest sell order price of the booked orders being the book sell price, the highest buy order price of the booked orders being the book buy price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) means for engaging in a price discovery procedure with a set of first computer processes before responding to a request for a current buy or sell price of the security, wherein the price discovery procedure produces a discovered price for the security see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47) and means for providing the discovered price as the current buy or sell price of the security the discovered price being higher than the book buy price or lower than the book sell price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

Kalmus fail to explicitly teach to a plurality of market participants participating in the market.

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The

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inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines(see column 21 lines 52-61 and column 23 lines 24-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kalmus to include to a plurality of market participants participating in the market taught by Anaya in order execute a trade based on published.

As per claim 40, Kalmus discloses a non-transitory computer-accessible storage medium containing computer program instructions for providing a published price for a security, wherein the published price is available to a plurality of market participants in a market to execute a trade for the security, wherein the instructions, in response to execution by a computer, cause the computer to:

notify a set of first computer processes of a proposed price for buying or selling the security, wherein a trade for the security at the proposed price is not executable at the market, receive an improved price for the security from at least one of the first computer processes, wherein the improved price is higher than the proposed price for buying or lower than the proposed price for selling, and in response to receiving an improved price from at least one of the first computer processes, provide the improved price as the published price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

Kalmus fail to explicitly teach wherein the market participants can execute a trade for the security at the published price.

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines(see column 21 lines 52-61 and column 23 lines 24-31).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kalmus to include wherein the market participants can execute a trade for the security at the published price wherein the market

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participants can execute a trade for the security at the published price taught by Anaya in order execute a trade based on published price..

in order to .

As per claim 41, Kalmus discloses wherein the instructions, when executed, further cause the computer to compare a current book price to a most recent trade price and decide to notify the first computer processes of the proposed price when the current book price is different than the most recent trade price (see column 4 lines 1-67 and claim 1 and claim 3 lines 5-40 and column 5 lines 1-67 and column 6 lines 1-47).

CONCLUSION

Response to Arguments

4. Applicant's arguments filed on 2/18/11 have been fully considered but are not persuasive for the following reasons.

5. In response to Applicant's arguments that Kalmus and Anaya fail to teach or suggest "notifying a set of first computer processes of a proposed price for buying or selling the security, wherein the set of first computer processes represents a subset of the plurality of market participants, and wherein a trade for the security at the proposed price is not executable at the market", the examiner disagrees with Applicant's because these limitations were addressed as stated.

Kalmus teaches the processor 10 ("i. e., second computer process 10") receives and stores the best (highest) bid (processing variable BSTB(STK)) for each stock (STK) in which it makes a market, and the best (lowest) asked price BSTA(STK) from the NASDAQ system. The best bid and best asked prices as reported by NASDAQ form the so-called "insider market" for over the counter securities. Processor 10 communicates to the NASDAQ system each reportable, executed trade for various informational and regulatory purposes which represents notification of offers for informational purposes (see column 4 lines 33) and the Input/output network provides data communication with the various branch offices of the brokerage house. Line 25 permits communication with either the branch order entry clerk or directly to the account executives at each branch. It is to be understood that a multiplicity of branches are in data communication with

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processor 10. Computer 10 also communicates with third party financial houses and for example and most typically, orders may be generated by the brokerage firm's account executives at the branches and communicated to the CPU 10. Orders are also supplied to the processor 10 from third party financial sources, which also represents a subset of offers or orders(see column 4 lines 41-50).

However Anaya discloses the published offer prices at which the market participants will buy and/or sell specified securities are referred to as bid and ask quotes, respectively. The most aggressive quotes define the inside quotes. The inside ask quote is the lowest ask quote. The inside bid quote is the highest bid quote. Separate inside quotes are defined for each type of trading security. New quotes are received in incoming NQDS messages from the feed lines(see column 21 lines 52-61 and column 23 lines 24-31).

Therefore it is obviously clear that the teachings of communicating offers with different prices for informational purposes and the fact that some of these offers of orders are generated by brokerage firms and represent a subset of offers taught by Kalmus combined with Anaya executing a trade at a publish price would have been able to perform the functions of providing information about offers and executing a trade based on a publish price.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B. Graham whose telephone number is 571-272-6795. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CG

April 18, 2011

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691